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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,659	12/28/2001	John H. Guy	7356-51437	7943

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EXAMINER

MACKEY, JAMES P

ART UNIT

PAPER NUMBER

1722

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,659

Applicant(s)

GUY, JOHN H.

Examiner

James Mackey

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Van de Caveye et al. (U.S. Patent 4,576,561).

Van de Caveye et al. teach an apparatus comprising a frame 5 having an opening therein, a conveyor 30 positioned within the frame opening, at least one elongated, rotatable horizontal roller 14 mounted to the frame at a desired distance above the conveyor, and an electric motor/rotary power means 27, 28 operatively coupled to the at least one roller (see col. 3, lines 66-68, and col. 4, lines 38-47). Van de Caveye et al. also teach a method of precise dimensional control of formed building blocks, comprising the steps of providing an apparatus comprising a frame 5 having an opening therein, a conveyor 30 positioned within the frame opening, and at least one elongated, rotatable horizontal roller 14 mounted to the frame at a desired distance above the conveyor, and passing building blocks while in a malleable state between the roller and conveyor surface, whereby a vertical dimension of the building blocks is deformed to a desired dimension equal to the distance between a lowermost edge of the roller and the surface supporting the building blocks.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. ~~Claims 4-9 are rejected under~~ 35 U.S.C. 103(a) as being unpatentable over Van de Caveye et al. (U.S. Patent 4,576,561).

Van de Caveye et al. disclose an apparatus substantially as claimed, as described above, and further including a carriage 15 supporting the roller and positioning means 21 operatively coupled to the carriage and the roller for adjusting the position of the roller with respect to the carriage. Van de Caveye et al. do not disclose means for heating an outer surface of the roller (claims 4, 6 and 9), do not disclose the roller being formed of a material resistant to adhering to the building block (claim 5), and do not disclose the positioning means coupled to the carriage and roller as being a lead screw (claims 7 and 8). However, it is well known and conventional in the press shaping art to provide a shaping member with heating means or a non-stick surfacing material for minimizing the block material being pressed from sticking to the shaping member, and therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Van de Caveye et al. by providing the shaping roller with either heating means or a non-stick surfacing material, as is well known and conventional in the press shaping art, in order to minimize sticking of the block material to the roller, especially in view of the recognition in Van de Caveye et al. that material sticking to the rollers is an issue that should be addressed, e.g. by cleaning (col. 5, lines 15-19). With regard to the lead screw positioning means, jacks and screws are equivalent means for adjusting the relative position between two structures, and it would have been obvious and well within the level of ordinary skill in the art to modify Van de Caveye et al. by providing the positioning means 21 as a lead screw for the same purpose of adjusting the position of the roller relative to the carriage.

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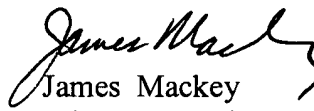
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Champomier et al. (U.S. Patent 5,779,957 ; Figure 10) discloses pressing a block between a horizontal roller and a conveyor to deform the vertical dimension of the block. Stevens (U.S. Patent 1,570,594; Figures 1 and 4) discloses a pressing belt carried by rotatable rollers, with a lead screw positioning means for adjusting the position of the belt/rollers relative to the carriage. Shoe et al. (U.S. Patent 3,824,055; Figures 1, 4 and 7; col. 6, lines 45-49) discloses a horizontal press roller mounted above a conveyor and including a lead screw positioning means 66 for adjusting the position of the roller relative to the carriage.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Mackey whose telephone number is 703-308-1195. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on 703-308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


James Mackey
Primary Examiner
Art Unit 1722

8/25/03

jpm
8/25/03